RNI No. **KARBIL/2001/47147**

ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೮ Volume 148	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಜನವರಿ ೧೦, ೨೦೧೩ (ಪುಷ್ಯ ೨೦, ಶಕ ವರ್ಷ ೧೯೩೪) Bangalore, Thursday, January 10, 2013 (Pushya 20, Shaka Varsha 1934)	ಸಂಚಿಕೆ ೨ Issue 2

ಭಾಗ – ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 37 ಕೇನಿಪ್ರ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 08ನೇ ಆಗಸ್ಟ್, 2012.

2012ನೇ ಸಾಲಿನ 02-04-2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(ii) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R. 281(E) ದಿನಾಂಕ:02-04-2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF FINANCE

(Department of Financial Services)

NOTIFICATION

New Delhi, the 2nd April, 2012

G.S.R.281(E).-· In exercise of the powers conferred by Sections 19 and 20 read with clauses' (a), (b) and (c) of sub-section (2) of Section 32 of the Factoring Regulation Act, 2011 (12 of 2012)~ the Central Government hereby makes the following rules, namely :-

1. **Short title and commencement.-** (1) These rules may be called the Registration of Assignment of Receivables Rules, 2012.

   (2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.-**

   (1) In these rules, unless the context otherwise requires,-

   (a) **"Act"** means the Factoring Regulation Act, 2011 (12 of 2012);

   (b) **"Central Register"** means the register kept and maintained under section 22 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

   (c) **"Central Registrar"** means a person appointed as such under sub-section (1) of section 21 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) **"Central Registry"** means the Central Registry set up under section 20 of the Securitisation and Reconstruction of Financial· Assets and Enforcement of Security Interest Act, 2002 (54 of 2002).

(e) "Forms" menas the Forms annexed to the rules.

(2) The words and expressions used in these rules -and not defmed shall have the meaning respectively assigned to them in the Factoring Regulation Act, 2011 or the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) or the Information Technology Act, 2000 (21 of 2000), as the case may be.

3. Registration of Transactions of assignment of receivables.-

Every Factor shall file particulars of,

(a) assignment of receivables in his favour with the Central Registry in Form-I and such form shall be authenticated by a person specified in the form for such purpose by use of a valid digital signature;

(b) satisfaction of any transaction of assignment of receivables on realisation of the receivables fully in Form-II which shall be authenticated by a person specified in the form for such purpose by use of a valid digital signature.

4. Time Limit for Registration and Condonation of Delay.-

The provisions contained in the Securitisation and Reconstruction of .Financial Assets and Enforcement of Security Interest Act, 2002 and the rules made thereunder in relation to- registration of Security Interest, time-limit for registration and condonation of delay in registration and all other related matters, shall apply to registration of assignment of receivables - in favour of factors under the - provisions of this Act.

5. Inspection of records of Central Register.-

(1) The particulars of any transaction of assignment of receivables kept in the Central Registry shall be open for inspection to any person through the website of the Central Registry and during the business hours at the Central Registry on payment of fee specified in rule 6:

Provided that the Central Registry may allow the inspection to be carried out through such person authorised by it in this behalf.

6. Fees.-

Every Form for registration of any transaction relating to assignment of receivables, satisfaction of receivables on realisation and every request for inspection of any record maintaine by the Central Registry shall be accompanied by a fee specified in the Table given below to be paid to the Central Registry in the manner as may be specified by the Central Registrar from time to time.

TABLE

Serial No.	Nature of transaction to be Registered	Form No.	Amount of fee payable
1	2	3	4
1	Particulars of Assignment of Receivables	Form I	Rs. 500 for assisgnment of receivables
2	Satisfaction of registration on realisation of the receivable	Form II	Rs. 250
3	Any application for information recorded or maintained in the Register by any person	…	Rs. 50
4	Any application for condonation of delay upto 30 days	…	Rs. 2500

[F.No. 6/3/2010-BO. II]

ALOK NIGAM, Jt. Secy.

CENTRAL REGISTRY

FORM I

Assignment of Receivables in favour of Factor

(Particulars of assignment of receivables)

1. (a) **Category of the Assignor of receivables (Fill up only one category):**

Individual ☐ Proprietorship Firm ☐

Limited Liability Partnership Firm (LLP) ☐ Partnership Firm ☐ Company ☐

Trust ☐ HUF ☐

(b) Whether the receivables are free from any encumbrance? **O** Yes **O** No

(c) If not, name and address of the Bank or Financial Institution holding any Security interest over the receivables.

Name of Bank/Financial Institution

☐

Address of Bank/Financial Institution

☐

Name and address of Leader of Consortium

(d) If security interest over receivables is held by Consortium of Banks, name and address of the Leader

☐

Name and address of the Bank representing Multiple Banks

(e) If security interest over receivables is held by Multiple Banks, name and address of the Bank authorised to act on behalf of other Banks

Note: If there is no single Bank representing Multiple Banks names of all the Banks may be furnished.

2. **Assignor**

(a) Individual

(i) Name
Title (Mr./Mrs./Ms.)

Surname Name

Father's/Husband's name

Date of Birth (dd/mm/yyyy)

(ii) Permanent Account Number (PAN) of Individual Assignor

OR

(b) Proprietorship Firm

(i) Name of Proprietorship Firm

(ii) Permanent Account Number (PAN) of Proprietorship Firm

(iii) Name of the Proprietor
(a) in case of company Corporate Identity Number of Proprietor Company
(b) in case of individual

Title (Mr./ Mrs./Ms.)

Surname Name

Father's/Husband's name [ ]

Date of Birth (dd/mm/yyyy) [ ]

Permanent Account Number (PAN) [ ]

OR

(c) <u>Limited Liability Partnership Firm (LLP)</u>

(i) Limited Liability Partnership (LLP) Firm Name [ ]

(ii) Name of the partner or partners who is/are making assignment of receivables belonging to the Limited Liability Partnership (LLP) Firm

Title [ ] (Mr./Mrs./Ms.)

(1) Surname [ ] Name [ ]

Father's/Husband's name [ ]

Date of Birth [ ] (dd/mm/yyy)

(2) Title [ ] (Mr./Mrs./Ms.)

Surname [ ] Name [ ]

Father's/Husband's name [ ]

Date of Birth [ ] (dd/mm/yyy)

(Above details for multiple partners can be captured multiple times)

(iii) Permanent Account Number (PAN) of Limited Liability Partnership Firm (LLP) [ ]

OR

(d) <u>Partnership Firm</u>

(i) Partnership Firm Name [ ]

(ii) Name of the partner or partners who is / are making assignment of receivables belonging to the Partnership Firm [ ]

(a) Title [ ] (Mr./Mrs./Ms.)

Surname [ ] Name [ ]

Father's/Husband's name [ ]

Date of Birth [ ] (dd/mm/yyyy)

(b) Title [ ] (Mr/Mrs/Ms)

Surname [ ] Name [ ]

Father's/Husband's name [ ]

Date of Birth [ ] (dd/mm/yyyy)

(Above details for respective Partners can be captured multiple times)

(iii) Permanent Account Number (PAN) [ ]

OR

(e) <u>Company</u>

(i) Company name [ ]

(ii) Corporate Identity Number (CIN) or foreign company registration number [ ]

OR

(f) <u>Trust</u>

(i) Name of the Trust [ ]

(ii) Whether Private Trust or Public Trust [ ]

(iii) If Public Trust, registration number as such Trust, if any [ ]

(iv) Trust Permanent Account Number [ ]

(v) Name of the Trustee/person who is making assignment of receivables belonging to the Trust

Title [ ] (Mr./Mrs./Ms.)

Name [ ] Sur Name [ ]

Father's/Husband's name [ ]

Date of birth [ ] (dd/mm/yyyy)

(g) HUF

Title of HUF [ ] (Mr./Mrs./Ms.)

Name of Karta [ ] Surname [ ]

Father's/Husband's name [ ]

Date of birth [ ] (dd/mm/yyyy)

Permanent Account Number (PAN) of HUF [ ]

3. <u>Address of the Assignor</u>:

Shop/ Flat/House No. [ ]

Plot No. [ ]

Building No. [ ] Building Name [ ]

Street Name/No. [ ]

Village [ ]

Taluka [ ] District [ ]

State/UT [ ] PIN Code [ ]

Basic Statistical- Return Code (BSR) Code if any assigned to Assignor [ ]

Note: In the case of companies the address of Registered Office and in the case of others the address of principal place of business may be furnished.

4. <u>Particulars of the Factor being the Assignee of receivables</u>

Name of Assignee [ ]

Corporate Identity Number [ ]

Permanent Account Number (PAN)

Address

Shop/ Flat/House No.

Plot Number

Building Number Building Name

Street Name/No.

Village

Town

Taluka

City

District

State /UT

Pin Code

e-mail ID

Telephone

5): **DEBTOR (Buyer)**

(a) DEBTOR (Buyer) Limit

(b) **Particulars of Debtor**

i) Individual Debtor

(i) Title (Mr./Mrs./Ms.)

Surname [ ] Name [ ]

Father's/Husband's name [ ]

Date of Birth [ ] (dd/mm/yyyy)

(ii) Individual debtor Permanent Account Number (PAN) [ ]

OR

(ii) <u>Proprietorship Firm Debtor</u>

(i) Name of Proprietorship Firm [ ]

(ii) Proprietorship Firm Permanent Account Number (PAN) [ ]

(iii) Name of the Proprietor

(a) in case of company [ ]

(b) in case of individual

Title [ ] (Mr./ Mrs./Ms.)

Surname [ ] Name [ ]

Father's name [ ]

Age [ ]

Date of Birth (dd/mm/yyyy) [ ]

OR

(iii) <u>Partnership Firm Debtor</u>

Partnership Firm Name [ ]

Partnership Firm Permanent Account Number (PAN) [ ]

Name of the partner or partners of debtors [ ]

Title [ ] (Mr./Mrs./Ms.)

Surname [ ] Name [ ]

Father's/Husband's name [ ]

Age [ ]

Date of Birth [ ] (dd/mm/yyyy)

OR

(iv) <u>Limited Liability Partnership Firm (LLP) Debtor</u>

Limited Liability Partnership (LLP) Firm Name [ ]

LLP firm Permanent Account Number (PAN) [ ]

Name of the partner or partners

Title [ ] (Mr./Mrs./Ms.)

(1) Surname [ ] Name [ ]

Father's/Husband's name [ ]

Age [ ]

Date of Birth [ ] (dd/mm/yyyy)

OR

(v) <u>Company Debtor</u>

Company name [ ]

Corporate Identity Number (CIN) or foreign company registration number [ ]

Company PAN [ ]

OR

(vi) Trust

Name of the Trust

Type of Trust (Private/Public)

If Public Trust, registration number as such Trust, if any

Trust Permanent Account Number

Name of the Trustee/person who is making assignment of receivables belonging to the Trust

Title (Mr./Mrs./Ms.)

Surname Name

Father's/Husband's name

Age

Date of birth (dd/mm/yyyy)

(vii) HUF

Title of HUF

Name of Karta

Title (Mr./Mrs./Ms.)

Surname Name

Father's/Husband's name

Age

Date of birth [ ] (dd/mm/yyyy)

Permanent Account Number (PAN) of HUF [ ]

c) **Address of the Debtor**:

Shop/Flat/House No. [ ]

Plot No. [ ]

Building No. [ ]

Building Name [ ]

Street Name/No. [ ]

Village/Town [ ]

Taluka [ ] District [ ]

State [ ] PIN Code [ ]

Email ID [ ]

Telephone [ ]

(In case of multiple debtors in respect of a single assignor, the details of multiple debtors may be provided)

6) Assignment Details

6 (a). Financial Details of the Assignment

(i) Total Limit/Facility sanctioned under the agreement
(in case the amount is in foreign currency, rupee equivalent to be stated)
…………..(Rupees ________________________________ only)

(ii) Expected realisation or repayment period (in days) [ ]

(iii) Amount receivables assigned or given as Security for loan / credit limit [ ]

6(b). Whether assignment is absolute without recourse to assignor O Yes O No
No

If not, amount of loan or credit limit secured by receivables: [ ]

(Rupees…………………………………………….only)

Payment schedule of the loan from [ ] [ ] [ ]

or period during which assignment subsists DD MM YYYY

to [ ] [ ] [ ]

DD MM YYYY

If credit limit renewable from time to time and secured by specific receivables, or present and
future receivables, please mention:

Particulars of specific receivables [ ]

Description of future receivables [ ]

7) Description of Document by which the receivables are assigned:

Assignment Deed or assignment as security for a loan

Name of the Parties (1) [ ]

(2) [ ]

Date of Document [ ]

Place of execution [ ]

Taluka [ ]

District [ ] State [ ]

Pin code [ ]

Description of receivables which are assigned or given as security in favour of the Factor

i) Whether the assignment is on (a) whole turnover basis
(b) Invoice basis (non whole turnover basis)

a) In case of Whole Turnover Basis:

i) Brief description of goods or services

ii) Sub-Limit sanctioned for the goods and services

iii) Sale proceeds of goods manufactured and sold or services provided / rendered or to be provided / rendered for the period from_____________ to______________

OR

i) Brief description of goods or services

ii) Sub-Limit sanctioned for the goods and services

iii) Sale proceeds of goods sold or to be sold or services rendered or to be provided / rendered as trader /selling Agent / retailer for the period from ________ to _______

(Above details for different goods type can be captured multiple times depending upon the number of types of goods)

b) In case of Invoice Basis (non-whole turnover basis):

i) Invoice No.
ii) Date
....

iii) Amount of invoice

iv) Serial numbers or any other identification marks
(e.g. Chassis No. for vehicles)

v) Brief Description of goods

vi) Payable by date (DD/MM/YYYY)

8. Brief particulars of the principal terms and conditions of the assignment agreement

A. Discount

B. Margin amount details

C. Extent and operation of the charge

D. Others

10. Digital signature of the authorised representative of Assignee/ Factor

CENTRAL REGISTRY
FORM II

Satisfaction on realisation of receivables

(Particulars for Satisfaction on realis ation of receivables)

1. Assignor Permanent Account Number (PAN)

2. (a) Name of the Assignor

(b) Address of the Assign

Building No.

Building Name

City

State/UT

3. Assignment registration ID Number

(a) Particulars of the Assignee Factor

Permanent Account Number

Name

Address

Building No.

Building Name

City

State/UT

(b) Particulars of registration of assignment of receivables:

(i) Registration date (dd/mm/yyyy)

(ii) Final amount assigned (in Rupees)

4. Date of realization of receivables or repayment of loan in full [ ] (dd/mm/yyyy)

For office use only

It is certified that the above document for charge satisfaction is hereby registered

Digital signature of the authorised Officer at the Central Registry [ ]

Digital signature of the authorised officer at the Central Registry [ ]

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR -73

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 59 ಕೇನಿಪ್ರ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 7ನೇ ನವೆಂಬರ್, 2012.

2012ನೇ ಸಾಲಿನ 23–04–2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(1) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R. 313(E) ದಿನಾಂಕ : 24–04–2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 24th April, 2012

GS.R. 313(E).- In exercise of the powers conferred by sub-section (1) of section 642 read with section 610B of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following rules further to amend the Companies (Central Government's) General Rules and Forms, 1956, namely :-

1. (1) The rules may be called the Companies (Central Government's) General Rules and Forms (Amendment) Rules, 2012.

   (2) These rules shall come into force with effect from the 24th April, 2012.

2. In the Companies (Central Government's) General Rules and Forms, 1956, in Annexure `A' for Forms 23C and 23D, the following Forms shall be substituted, namely :-

FORM 23C

[Pursuant to section 233B(2) of Companies Act, 1956]

Form of application to the Central Government for appointment of cost auditor

Form Language ◉ English ○ हिन्दी

Note - All fields marked in * are to be mandatorily filled.

1.(a) *Corporate identity number (CIN) or foreign company registration number (FCRN) of the company [ ] Pre-fill

(b) Global location number (GLN) of company [ ]

2.(a) Name of the company [ ]

(b) Address of the registered office or of the principal place of business in India of the company [ ]

(c) *e-mail ID of the company [ ]

(d) *Phone [ ]

3.(a) *Category of cost audit order ○ Company specific order ○ Industry-wise general order

(b) * Number of industries for which the form is being filed [ ]

I

(i) * Number of the Central Government's order directing cost audit 52/ [ ] / CAB / [ ] Pre-fill

(ii) * Date of the Central Government's order directing cost audit [ ] (DD/MM/YYYY)

(iii) Name of Industry to which cost audit order relates [ ]

4. Details of the cost auditor proposed to be appointed

(a) *Category of cost auditor ○ Individual ○ Cost auditor's firm

(b) *Income-tax permanent account number of cost auditor or cost auditor's firm [ ]

(c) *Name of the cost auditor or cost auditor's firm proposed to be appointed as cost auditor as per Board resolution

[ ]

(d) *Membership number of cost auditor or cost auditor's firm's registration number [ ]

(e) Address of the cost auditor or cost auditor's firm

(i) *Line I [ ]

Line II [ ]

(ii) *City [ ]

(iii) *State [ ]

(iv) Country [ ]

(v) *Pin code [ ]

(f) * e-mail ID of the cost auditor or cost auditor's firm

[ ]

(g) *Whether the cost auditor is subject to any disqualification under section 233B(5) of the Companies Act, 1956

◯ Yes ◯ No

(h) Whether appointment of auditor is within the limits specified in sub-section 1B of section 224 (applicable in case of appointment in public company) ◯ Yes ◯ No

(i) *Scope of audit for the proposed cost auditor as per the Board resolution

5. *Proposed remuneration of the cost auditor (in Rs.)

6. Financial year to be covered by the cost auditor

(a) *From (DD/MM/YYYY)

(b) *To (DD/MM/YYYY)

7. *Date of meeting of Board of directors proposing the name of the cost auditor (DD/MM/YYYY)

8.(a) *Is there any change in the cost auditor ◯ Yes ◯ No

(b) If yes, name and address of previous auditor

(c) Reasons for change in the auditor

(d) Whether the previous cost auditor has been informed of the change ◯ Yes ◯ No

Attachments

1. *Copy of the Board resolution of the company sanctioning the proposal for which the Central Government approval has been sought [Attach]
2. *Copy of the certificate obtained from cost auditor regarding compliance of the section 224(1B) of the Companies Act, 1956 [Attach]
3. Optional attachment(s) - if any [Attach]

List of attachments

[Remove attachment]

Verification

To the best of my knowledge and belief, the information given in this application and its attachments is correct and complete.

☐ I have been authorised by the Board of directors' resolution number ________ dated ________ (DD/MM/YYYY) to sign and submit this application.

☐ I am authorised to sign and submit this application.

To be digitally signed by

Managing Director or director or manager or secretary of the company (in case of indian company) or authorised representative (In case of a foreign company)

*Designation

* Director identification number of the director or Managing Director; or Income-tax PAN of the manager or authorised representative; or Membership number, if applicable or income-tax PAN of the secretary (secretary of a company who is not a member of ICSI, may qoute his/ her income-tax PAN)

Modify | Check Form | Prescrutiny | Submit

FORM 23D

Information by cost auditor to Central Government

[Pursuant to Section 233B of the Companies Act, 1956]

Note - All fields marked in * are to be mandatorily filled.

1.(a) *Corporate identity number (CIN) or Foreign company registration number (FCRN) of company — Pre-fill

(b) Global location number (GLN) of company

2.(a) Name of the company

(b) Address of the registered office or of the principal place of business in India of the company

3. (a) *Service Request Number (SRN) of Form 23C — Pre-fill

(Application to the Central Government for appointment of cost auditor by the company)

(b) Category of cost audit order ◯ Company specific order ◯ Industry-wise general order

(c) Number of industries for which the form is being filed

(i) Number of the Central Government's order directing cost audit 52/ ____ / CAB / ____

(ii) Date of the Central Government's order directing cost audit ________ (DD/MM/YYYY)

(iii) Name of Industry to which cost audit order relates

4. **Details of the cost auditor**

(a) *Category of cost auditor ◯ Individual ◯ Cost auditor's firm

(b) *Income-tax permanent account number of cost auditor or cost auditor's firm

(c) *Name of the cost auditor or cost auditor's firm appointed as cost auditor

(d) *Membership number of cost auditor or cost auditor's firm's registration number

(e) Address of the cost auditor or cost auditor's firm

(i) *Line I

Line II

(ii) *City

(iii) *State

(iv) Country

(v) *Pin code

(f) *e-mail ID of the cost auditor or cost auditor's firm

(g) *Whether the cost auditor is subject to any disqualification under section 233B(5) of the Companies Act, 1956 ◯ Yes ◯ No

(h) Whether appointment of auditor is within the limits specified in sub-section 1B of section 224 (applicable in case of appointment in public company) ◯ Yes ◯ No

(i) *Scope of audit for the cost auditor as per the appointment letter

5. Financial year to be covered by the cost auditor

(a) *From (DD/MM/YYYY)

(b) *To (DD/MM/YYYY)

6. Date of filing Form 23C for appointment of cost auditor by the company (DD/MM/YYYY)

7. *Date of receipt of intimation of appointment by the cost auditor (DD/MM/YYYY)

8. *Whether appointment was accepted ◯ Yes ◯ No

Attachments

1. *Copy of the intimation received from the company [Attach]
2. Optional attachment(s) - if any [Attach]

List of attachments

[Remove attachment]

Verification

I hereby confirm that the information given in this form and its attachments is correct and complete.
I am duly authorised to sign and submit this form.

To be digitally signed by

Cost Auditor

*Whether associate or fellow ◯ Associate ◯ Fellow

*Membership number

[Modify] [Check Form] [Prescrutiny] [Submit]

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[F No 2/1/2012- CL V]

B.B. Goyal, Advisor (Cost)

Note:- The principal notification was published in the Gazette of India, Part II, Section 3, Sub-section (i) vide number G.S.R. 432(E) dated the 18th January, 1956 and subsequently amended vide the following notifications:-

Serial Number	Notification Number	Notification Date
1.	SRO 2535	1.11.1956
2.	SRO 3135	21.12.1956
3.	SRO 237	19.1.1957
4.	SRO 2105	29.1.1957
5.	SRO 3038	28.9.1957
6.	SRO 3867	7.12.1957
7.	GSR 48	22.2.1958
8.	GSR 723	23.8.1958
9.	GSR 750	30.8.1958
10.	GSR 1026	1.11.1958
11.	GSR 14	3.1.1959
12.	GSR 548	9.5.1959
13.	GSR 1140	17.10.1959
14.	GSR 1224	7.11.1959
15.	GSR 1364	12.12.1959
16.	GSR 220	27.2.1960
17.	GSR 595	28.5.1960
18.	GSR 195	18.2.1961
19.	GSR 814	24.6.1961
20.	GSR 1105	09.09.1961
21.	GSR 1408	25.11.1961
22.	GSR 653	12.05.1962
23.	GSR 344	02.03.1963
24.	GSR 628	13.4.1963
25.	GSR 97	16.1.1965
26.	GSR 822	12.6.1965
27.	GSR 1570	30.10.1965
28.	GSR 368	19.3.1966
29.	GSR 421	18.3.1966
30.	GSR 499	9.4.1966
31.	GSR 743	21.5.1966
32.	GSR 847	4.6.1966
33.	GSR 1266	13.8.1966
34.	GSR 130	20.1.1968
35.	GSR 667	30.6.1973
36.	GSR 327(E)	10.6.1975
37.	GSR 414(E)	16.7.1975
38.	GSR 2596	1.11.1975
39.	GSR 2828	13.12.1975
40.	GSR 154	31.1.1976
41.	GSR 248(E)	24.3.1976
42.	GSR 627	14.5.1977
43.	GSR 24(E)	9.1.1979
44.	GSR 1256	6.10.1979
45.	GSR 555(E)	4.9.1982
46.	GSR 479(E)	22.4.1988
47.	GSR 694(E)	10.6.1988
48.	GSR 782(E)	13.7.1988
49.	GSR 908(E)	7.9.1988
50.	GSR 1032(E)	26.10.1988
51.	GSR 449 (E)	17.4.1989
52.	GSR 510(E)	24.5.1990
53.	GSR 795(E)	18.9.1990
54.	GSR 289(E)	31.5.1991
55.	GSR 614(E)	3.10.1991
56.	GSR 754(E)	26.12.1991
57.	GSR 312(E)	6.3.1992
58.	GSR 353(E)	26.3.1992
59.	GSR 484(E)	11.5.1992
60.	GSR 581 (E)	27.8.1993
61.	GSR 621 (E)	24.9.1993
62.	GSR 286(E)	1.3.1994
63.	GSR 598(E)	28.7.1994
64.	GSR 697(E)	20.9.1994
65.	GSR 283(E)	21.3.1995
66.	GSR 424(E)	26.5.1995
67.	GSR 251(E)	21.6.1996
68.	GSR 97(E)	28.2.1997
69.	GSR 126(E)	1.3.1997
70.	GSR 16(E)	6.1.1999
71.	GSR 23(E)	12.1.1999
72.	GSR 130(E)	23.2.1999
73.	GSR 788(E)	29.11.1999
74.	GSR 58(E)	17.1.2000
75.	GSR 363 (E)	27.4.2000

Serial Number	Notification Number	Notification Date
76.	GSR 638(E)	26.7.2000
77.	GSR 836(E)	24.10.2000
78.	GSR 24(E)	15.01.2001
79.	GSR 35(E)	24.01.2001
80.	GSR 51(E)	31.01.2001
81.	GSR 96(E)	14.02.2001
82.	GSR 330(E)	07.05.2002
83.	GSR 5(E)	03.01.2003
84.	GSR 479(E)	12.06.2003
85.	GSR 580(E)	24.07.2003
86.	GSR 56(E)	10-02-2006
87.	GSR 555(E)	14-09-2006
88.	GSR 399 (E)	30-05-2007
89.	GSR 500 (E)	24-07-2007
90.	GSR 720(E)	16-11-2007
91.	GSR 655(E)	12-09-2008
92.	GSR 788(E)	14-11-2008

Serial Number	Notification Number	Notification Date
93.	GSR 824(E)	28-11-2008
94.	GSR 835(E)	04-12-2008
95.	GSR 868(E)	22-12-2008
96.	GSR 872(E)	23-12-2008
97.	GSR 876(E)	24-12-2008
98.	GSR 183(E)	20-03-2009
99.	GSR 257(E)	17-04-2009
100.	GSR 284(E)	24-04-2009
101.	GSR 643(E)	07-09-2010
102.	GSR 649(E)	08-09-2010
103.	GSR 78 (E)	10-02-2011
104.	GSR 259(E)	26-03-2011
105.	GSR 351(E)	29-04-2011
106.	GSR 407(E)	26-05-2011
107.	GSR 408(E)	26-05-2011
108.	GSR 514(E)	07-07-2011
109.	GSR 533(E)	14-07-2011
110.	GSR 618(E)	10-08-2011
111.	GSR 716(E)	23-09-2011
112.	GSR 749(E)	05-10-2011

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಜಿ. ಶ್ರೀಧರ್,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 80

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 56 ಕೇನಿಪ್ರ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 07ನೇ ನವೆಂಬರ್, 2012.

2012ನೇ ಸಾಲಿನ 25–07–2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(1) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O. 1693(E) ದಿನಾಂಕ: 25–07–2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 25th July, 2012

(INCOME-TAX)

S.O. 1693 (E).-· Whereas an Agreement and the Protocol between the Government of the Republic of India and the Government of the Republic of Lithuania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital (DTAA) was signed at New Delhi on 26th July, 2011;

And whereas, the date of entry into force of the said Agreement is the 10th July, 2012, being the date of the later of the notifications of completion of the procedures as required by the respective laws for entry into force of the said Agreement, in accordance with paragraph 2 of Article 31 of the said Agreement;

And whereas, sub-paragraph (a) of paragraph 3 of Article 31 of the said Agreement provides that the provisions of the said Agreement shall have effect in India in respect of taxes withheld at source, on income derived on or after the first day of

April next following the calendar year in which the Agreement enters into force; and, in respect of other taxes on income and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of April next following the calendar year in which the Agreement enters into force;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Agreement, as set out in the Annexure hereto, shall be given effect to in the Union of India from 1st day of April, 2013.

ANNEXURE

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF INDIA

AND THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF

FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Republic of India and the Government of the Republic of Lithuania, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital and with a view to promoting economic cooperation between the two Contracting States, have agreed as follows:

Article 1

PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property.

3. The existing taxes to which the Agreement shall apply are in particular:

(a) in India:

(i) the income tax, including any surcharge thereon;

(ii) the wealth tax, including any surcharge thereon;

(hereinafter referred to as "Indian tax");

(b) in Lithuania:

(i) the profit tax (pelno mokestis);

(ii) the income tax (pajamu mokestis);

(iii) the immovable property tax (nekilnojamojo turto mokestis);

(hereinafter referred to as "Lithuanian tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

(a) the term "India" means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the U.N. Convention on the Law of the Sea;

(b) the term "Lithuania" means the Republic of Lithuania and, when used in the geographical sense, means the territory of the Republic of Lithuania and any other area adjacent to the territorial sea of the Republic of Lithuania within which under the laws of the Republic of Lithuania and in accordance with international law, the rights of Lithuania may be exercised with respect to the sea bed and its subsoil and their natural resources;

(c) the terms "a Contracting State" and "the other Contracting State" mean India or Lithuania, as the context requires;

(d) the term "person" includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting State;

(e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

(f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(h) the term "competent authority" means:

(i) in India: the Finance Minister, Government of India, or his authorised representative;

(ii) in Lithuania: the Minister of Finance or his authorised representative;

(i) the term "national" means:

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

(j) the term "tax" means Indian or Lithuanian tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty or fine imposed relating to those taxes;

(k) the term "fiscal year" means:

(i) in India: the financial year beginning on the 1st day of April;

(ii) in Lithuania: the taxation period as defined in the respective tax laws of Lithuania.

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement having regard to the person's place of incorporation, the place of effective management and any other relevant factors. In the absence of such agreement, for the purposes of the Agreement, the person shall not be entitled to claim any benefits provided by this Agreement.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a store or premises used as a sales outlet;

(g) a warehouse in relation to a person providing storage facilities for others; and

(h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. (a) A building site, or construction, installation or assembly project or supervisory activities connected therewith constitute a permanent establishment only if such site, project or activities last more than nine months.

(b) The furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose constitutes a permanent establishment, but only where activities of that nature continue (for the same or connected project) within the Contracting State for a period or periods aggregating more than six months within any twelve month period.

(c) Activities carried on offshore in a Contracting State in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources constitute a permanent establishment if such activities are carried on for a period or periods exceeding in the aggregate 30 days in any twelve month period.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or occasional delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or occasional delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) has and habitually exercises, in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise; or

(c) habitually secures orders in the first-mentioned State, wholly or almost wholly for the enterprise itself.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, any option or similar right to acquire immovable property, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources, rights to assets to be produced by the exploration or exploitation of the sea bed and sub-soil and their natural resources, including rights to interests in or to the benefit of such assets. Ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, in accordance with the domestic laws of the Contracting State in which the permanent establishment is situated.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where : -

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State may make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;

(b) 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State, provided that it is derived and beneficially owned by:

(*a*) the Government, a political subdivision or a local authority of the other Contracting State; or

(*b*) (*i*) in India, the Reserve Rank of India, the Export-Import Bank of India, the National Housing Bank; and

(*ii*) in Lithuania, the Bank of Lithuania; or

(*c*) any other financial institution wholly owned by the Government of the other Contracting State as may be agreed upon between the competent authorities of the Contracting States.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. The term "interest" shall not include any income which is treated as a dividend under the provisions of Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claims for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES AND FEES FOR TECHNICAL SERVICES

1. Royalties or fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties or fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties or fees for technical services is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties or fees for technical services.

3. (a) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or films or tapes and other means of image or sound reproduction used for television or radio broad casting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(b) The term "fees for technical services" as used in this Article means payments of any kind, other than those mentioned in Articles 14 and 15 of this Agreement in consideration for the services of a managerial or technical or consultancy nature, including the provision of services of technical or other personnel.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property or service in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties or fees for technical services shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties or fees for technical services, whether he is a resident of a Contracting State or

not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties or fees for technical services, having regard to the use, right or information or service for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13

CAPITAL GAINS

1. Gains or income derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains derived by an enterprise of a Contracting State operating ships or aircraft in international traffic from the alienation of ships or aircraft-operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

4. Gains from the alienation of shares in a company which is a resident of a Contracting State may be taxed in that State.

5. Gains from the alienation of any property other than that referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if:

(a) the individual has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base; or

(b) the individual is present in the other Contracting State for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other Contracting State.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, surgeons, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsperson if the activities are substantially supported by public funds of one or both of the Contracting States or of political sub-divisions or local authorities thereof. In such a case, the income shall be taxable only in the Contracting State of which the entertainer or sportsperson is a resident.

Article 18

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, and subject to the provisions of paragraph 2 of Article 19, pensions paid and other benefits, whether paid periodically or in a lumpsum, granted under the social security legislation of a Contracting State shall be taxable in that State.

Article 19

GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State.

(*b*) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2.(a) Any pension paid by, or out of funds created by, a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or a local authority thereof.

Article 20

PROFESSORS, TEACHERS AND RESEARCH SCHOLARS

1. A professor, teacher or research scholar who is or was a resident of a Contracting State immediately before visiting the other Contracting State for the purpose of teaching or engaging in research, or both, at a university, college or other similar approved institution in that other Contracting State shall be exempt from tax in that other State on any remuneration for such teaching or research for a period not exceeding two years from the date of his first arrival in that other State.

2. This Article shall apply to income from research only if such research is undertaken by the individual in the public interest and not primarily for the benefit of some private person or persons.

Article 21

STUDENTS

1. Payments which a student, an apprentice or a trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraph 1, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

Article 23

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24

METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. In India, double taxation shall be eliminated as follows:

(a) Where a resident of India derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in Lithuania, India shall allow:

(*i*) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Lithuania;

(*ii*) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Lithuania.

Such deduction in either case shall not, however, exceed that portion of the income tax or capital tax as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Lithuania.

(b) Where in accordance with any provision of the Agreement income derived or capital owned by a resident of India is exempt from tax in India, India may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

2. In Lithuania, double taxation shall be eliminated as follows:

Where a resident of Lithuania derives income or owns capital which, in accordance with this Agreement, may be taxed in India, unless a more favourable treatment is provided in its domestic law, Lithuania shall allow:

(a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid thereon in India;

(b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid thereon in India.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax in Lithuania as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in India.

Article 25

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. This provision shall not be construed as preventing a Contracting State from charging the profits of a permanent establishment which a company of the other Contracting State has in the first-mentioned State at a rate of tax which is higher than that imposed on the profits of a similar company of the first-mentioned Contracting State, nor as being in conflict with the provisions of paragraph 3 of Article 7. However, the difference in tax rates shall not exceed 10 percentage points.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties or fees for technical services and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 27

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (including documents or authenticated copies of the documents) as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political sub-divisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorizes such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information (including documents or authenticated copies of the documents) which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 28

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political sub-divisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be :

(a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or

(b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection,

the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to carry out measures which would be contrary to public policy (ordre public);

(c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

(d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 29

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 30

LIMITATION OF BENEFITS

1. Benefits of this Agreement shall not be available to a resident of a Contracting State, or with respect to any transaction undertaken by such a resident, if the main purpose of the creation or existence of such a resident or of the transaction undertaken by him, was to obtain the benefits under this Agreement that would not otherwise be available.

2. Where by reason of the provisions of paragraph 1 a resident of a Contracting State is denied the benefits of this Agreement in the other Contracting State, the competent authority of the other Contracting State shall notify the competent authority of the first-mentioned Contracting State.

Article 31

ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify each other in writing of the completion of the procedures required by the respective laws for the entry into force of this Agreement.

2. This Agreement shall enter into force on the date of the later of the notifications referred to in paragraph 1 of this Article.

3. The provisions of this Agreement shall have effect:

(a) in India:

(*i*) in respect of taxes withheld at source, on income derived on or after the first day of April next following the calendar year in which the Agreement enters into force;

(*ii*) in respect of other taxes on income and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of April next following the calendar year in which the Agreement enters into force;

(b) in Lithuania:

(i) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the Agreement enters into force;

(ii) in respect of other taxes on income and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the Agreement enters into force.

Article 32

TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year beginning after the expiration of five years from the date of entry into force of the Agreement. In such event the Agreement shall cease to have effect:

(a) in India:

(i) in respect of taxes withheld at source, on income derived on or after the first day of April next following the calendar year in which the notice is given;

(ii) in respect of the other taxes on income and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of April next following the calendar year in which the notice is given;

(b) in Lithuania:

(i) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the notice is given;

(ii) in respect of the other taxes on income and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice is given.

In Witness Whereof the undersigned, duly authorized thereto, have signed this Agreement.

Done in duplicate at New Delhi this 26th day of July, 2011, each in the Hindi, Lithuanian and English languages, all texts being equally authentic. In the case of divergence of interpretation, the English text shall prevail.

Sd/-
Prakash Chandra,
Chairman,
Central Board of Direct Taxes,
For the Government of the
Republic of India

Sd/-
Petras Simeliunas,
Ambassador,
Embassy of Lithuania,
For the Government of the
Republic of Lithuania

PROTOCOL

At the moment of signing the Agreement between the Government of the Republic of India and the Government of the Republic of Lithuania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed that the following provisions shall form an integral part of the Agreement:

1. Ad Article 5

It is understood that on the date of this Agreement none of the agreements for the avoidance of double taxation concluded by Lithuania provide for special provision deeming an insurance enterprise of a Contracting State to have a permanent establishment in the other Contracting State if it collects premiums or insures risks in the territory of that other State through a dependent agent.

However, if after that date, such special provision is included in any agreement for the avoidance of double taxation concluded by Lithuania, then, after consultations between the competent authorities of the Contracting States, such provision shall also be considered for this Agreement.

2. Ad Article 6

Where the ownership of shares or other corporate rights in a company entitles the owner of such shares of corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right to the enjoyment may be taxed in the Contracting State in which the immovable property is situated.

3. Ad Article 7 paragraph 3

It is understood that the deductions in respect of the head office expenses as referred to in paragraph 3 of Article 7 shall in no case be less than those allowable under the Indian Income-tax Act as on the date of entry into force of this Agreement.

No deduction shall be allowed in respect of amounts paid or charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of:

(i) royalties, fees or other similar payments in return for the use of patents or other rights;

(ii) commission for specific services performed or for management; and

(iii) interest on moneys lent to the permanent establishment except in case of a banking institution.

4. Ad Article 8 paragraph 1

It is understood that:

(*i*) profits from the operation of ships or aircraft in international traffic shall include profits from the use, maintenance or rental of containers (including trailers and related equipment for the transportation of containers) used for the transportation of goods or merchandise in international traffic, where such kind of activities are supplementary or incidental to the operation of ships or aircraft by the enterprise in international traffic, unless the containers are used solely within the other Contracting State;

(ii) interest on funds directly connected with the operation of ships or aircraft in international traffic shall be regarded as profits from the operation of such ships or aircraft if they are integral to the carrying on of such business, and the provisions of Article 11 shall not apply in relation to such interest.

Done in duplicate at New Delhi this 26th day of July, 2011, each in the Hindi, Lithuanian and English languages, all texts being equally authentic. In the case of divergence of interpretation, the English text shall prevail.

Sd/-	Sd/-
Prakash Chandra,	Petras Simeliunas,
Chairman,	Ambassador,
Central Board of Direct Taxes,	Embassy of Lithuania,
For the Government of the	For the Government of the
Republic of India	Republic of Lithuania

[Notification No. 28/2012/F.No. 503/02/1997-FTD-I]
Sanjay Kumar Mishra, Jt. Secy. (FT & TR-1)

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಜಿ. ಶ್ರೀಧರ್,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 82

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 70 ಕೇನಿಪ್ರ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 15ನೇ ಆಗಸ್ಟ್, 2012.

2012ನೇ ಸಾಲಿನ 18–05–2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(i) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R. 461(E) ದಿನಾಂಕ: 18–05–2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINSITRY OF FINANCE

(DEPARTMENT OF REVENUE)

(CENTRAL BOARD OF EXCISE AND CUSTOMS)

New Delhi the, 18th June, 2012

Notification No. 27 /2012-CE (N.T.)

G. S. R 461-(E).- In exercise of the powers conferred by rule 5 of the CENVAT Credit Rules, 2004 (hereinafter referred to as the "said rules"), and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No 5/2006 – Central Excise (N.T), dated the 14th March, 2006, published in Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 156(E), dated the 14th March, 2006, the Central Board of Excise and Customs hereby directs that refund of CENVAT credit shall be allowed subject to the procedure, safeguards, conditions and limitations as specified below, namely:-.

2.0 Safeguards, conditions and limitations.- Refund of CENVAT Credit under rule 5 of the said rules, shall be subjected to the following safeguards, conditions and limitations, namely:-

(a) the manufacturer or provider of output service shall submit not more than one claim of refund under this rule for every quarter:

provided that a person exporting goods and service simultaneously, may submit two refund claims one in respect of goods exported and other in respect of the export of services every quarter.

(b) in this notification quarter means a period of three consecutive months with the first quarter beginning from 1st April of every year, second quarter from 1st July, third quarter from 1st October and fourth quarter from 1st January of every year.

(c) the value of goods cleared for export during the quarter shall be the sum total of all the goods cleared by the exporter for exports during the quarter as per the monthly or quarterly return filed by the claimant.

(d) the total value of goods cleared during the quarter shall be the sum total of value of all goods cleared by the claimant during the quarter as per the monthly or quarterly return filed by the claimant.

(e) in respect of the services, for the purpose of computation of total turnover, the value of export services shall be determined in accordance with clause (D) of sub-rule (1) of rule 5 of the said rules.

(f) for the value of all services other than export during the quarter, the time of provision of services shall be determined as per the provisions of the Point of Taxation Rules, 2011.

(g) the amount of refund claimed shall not be more than the amount lying in balance at the end of quarter for which refund claim is being made or at the time of filing of the refund claim, whichever is less.

(h) the amount that is claimed as refund under rule 5 of the said rules shall be debited by the claimant from his CENVAT credit account at the time of making the claim.

(i) In case the amount of refund sanctioned is less than the amount of refund claimed, then the claimant may take back the credit of the difference between the amount claimed and amount sanctioned.

Procedure for filing the refund claim. -

(a) The manufacturer or provider of output service, as the case may be, shall submit an application in Form A annexed to the notification, to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, in whose jurisdiction,-

(i) the factory from which the final products are exported is situated.

(ii) the registered premises of the provider of service from which output services are exported is situated.

(b) The application in the Form A along with the documents specified therein and enclosures relating to the quarter for which refund is being claimed shall be filed by the claimant, before the expiry of the period specified in section 11B of the Central Excise Act, 1944 (1 of 1944).

(c) The application for the refund should be signed by-

(i) the individual or the proprietor in the case of proprietary firm or karta in case of Hindu Undivided Family as the case may be;

(ii) any partner in case of a partnership firm;

(iii) a person authorized by the Board of Directors in case of a limited company;

(iv) in other cases, a person authorized to sign the refund application by the entity.

(d) The applicant shall file the refund claim along with the copies of bank realization certificate in respect of the services exported.

(e) The refund claim shall be accompanied by a certificate in Annexure A-I, duly signed by the auditor (statutory or any other) certifying the correctness of refund claimed in respect of export of services.

(f) The Assistant Commissioner or Deputy Commissioner to whom the application for refund is made may call for any document in case he has reason to believe that information provided in the refund claim is incorrect or insufficient and further enquiry needs to be caused before the sanction of refund claim.

(g) At the time of sanctioning the refund claim the Assistant Commissioner or Deputy Commissioner shall satisfy himself or herself in respect of the correctness of the claim and the fact that goods cleared for export or services provided have actually been exported and allow the claim of exporter of goods or services in full or part as the case may be.

[F No 268/07/2012-CX.8]

Madan Mohan, Under Secretary

ANNEXURE

FORM A

Application for refund of CENVAT Credit under rule 5 of the CENVAT Credit Rules, 2004 for the Quarter ending | d | d | m | m | y | y | y | y |

To,

The Assistant Commissioner or Deputy Commissioner of Central Excise,

....

Sir,

I/ We have exported, the final products or output services during the Quarter and am/ are claiming the refund of CENVAT Credit in terms of Rule 5 of the CENVAT Credit Rules, 2004 as per the details below:

S No	Description	Amount in Rs
1	Total value of the goods cleared for export and exported during the quarter.	
2	Export turnover of the services determined in terms of Clause D of sub-rule (1) of rule 5.	
3	Total CENVAT Credit taken on inputs and input services during the quarter.	
4	Amount reversed in terms of sub-rule (5C) of rule 3	
5	Net CENVAT Credit = (3) – (4)	
6	Total value of all goods cleared during the quarter including exempted goods, dutiable goods and goods for export.	
7	Export turnover of services and value of all other services, provided during the said quarter.	
8	All inputs removed as such under sub-rule (5) of rule 3, against an invoice during the quarter.	
9	Total Turnover = (6) + (7) + (8)	

10	Refund amount as per the formula = (1) * (5)/(9), in respect of goods exported.	
11	Refund amount as per the formula = (2) * (5)/(9), in respect of services exported.	
12	Balance of CENVAT Credit available on the last day of quarter.	
13	Balance of CENVAT Credit available on the day of filing the refund claim.	
14	Amount claimed as refund, [Amount shall be less than the minimum of (10), (12) and (13) in case of goods or the minimum of (11), (12) and (13) in case of services]	
15	Amount debited from the CENVAT account [shall be equal to the Amount claimed as refund (14)]	

2.0 Details of the Bank Account to which the refund amount to be credited: Refund sanctioned in my favour should be credited in my/ our bank account. Details furnished below;

(i) Account Number :

(ii) Name of the Bank :

(iii) Branch (with address) :

3.0 Declaration

(i) I/ We certify that the aforesaid particulars are correct.

(ii) I/ We certify that we satisfy all the conditions that are contained in rule 5 of the CENVAT Credit Rules, 2004 and in notification No. /2012 – CE (N.T) dated June, 2012.

(iii) I/ We am/ are the rightful claimant(s) of the refund of CENVAT Credit in terms of rule 5, the same may be allowed in our favour.

(iv) I/ We declare that no separate claim for drawback or refund has been or will be made under the Customs and Central Excise Duties Service Tax Drawback Rules, 1995 or for claim of rebate under Central Excise Rules, 2002 or the Export of Services Rules, 2005 or under section 93 or 93A of Finance Act, 1994(32 of 1994).

(v) I/ We declare that we have not filed or will not file any other claim for refund under rule 5 of CENVAT Credit Rules, 2004, for the same quarter to which this claim relates.

Date | d | d | m | m | y | y | y | y |

Signature of the Claimant …………………………..
Name of the Claimant …………………………..
Registration Number …………………………..
Address of the Claimant ……………………….

4.0 Enclosures:

(i) Copies of Customs Certified ARE-1 form along with the copies of shipping bill and bill of lading in case of the export of goods.

(ii) Copies of the Bank Realization Certificates for the export of services. [refer 3(d)]

(iii) Certificate in Annexure A-I from the Auditor (statutory or any other) certifying the correctness of refund claimed in respect of export of services. [refer 3(e)]

5.0 Refund Order No **Date** | d | d | m | m | y | y | y | y |

The refund claim filed by Shri/ Messrs ______________________________

has been scrutinized with the relevant Central Excise/ Service Tax records. The said refund claim has been examined with respect to relevant enclosures and has/ has not been found in order. A refund of Rs ____________ (Rupees ______________________ ________________________) is sanctioned/ The refund claim filed is rejected.

Assistant Commissioner or Deputy Commissioner of Central Excise

Forwarded to-

(i) The Chief Accounts officer, Central Excise, for information and necessary action.

(ii) The Commissioner of Central Excise.

Assistant Commissioner or Deputy Commissioner of Central Excise

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(i) Passed for payment of Rs _____________ (Rupees ____________________). The amount is adjustable under head "0038 – Union Excise Duties – Deduct Refunds/ 0044 – Service tax – Deduct Refunds".

(ii) Amount credited to the account of the claimant as per the details below:

Amount refunded	
Account Number	
Reference No of transfer	
Name of the Bank	
Address of the Branch	

Annexure A –I

It is certified that:

(a) I am qualified auditor to audit the books of account of M/s ____________________

(b) I have audited the books of account of M/s _________________________ for the quarter ending _________________

(c) The value of the export turnover of services and total turnover of services mentioned at S No 2 and 7 in the table in Form A

(i) Is correct as per the books of account and relevant records of M/s ______________

(ii) Is in accordance with the provisions of rule 5 of the CENVAT Credit Rules, 2004.

Date	d	d	m	m	y	y	y	y	Auditor

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಆಂಜನಿ,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR -91

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 55 ಕೇನಿಪ್ರ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 07ನೇ ನವೆಂಬರ್, 2012.

2012ನೇ ಸಾಲಿನ 25–07–2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(1) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O. 1677(E) ದಿನಾಂಕ: 25–07–2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

NOTIFICATION

New Delhi the, 25th July, 2012

(INCOME-TAX)

S.O.1677(E)-Whereas an Agreement and the Protocol between the Government of the Republic of India and the Government of the Republic of Estonia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income was signed at Tallinn, Estonia, on 19th day of September, 2011;

And whereas, the date of entry into force of the said Agreement is the 20th day of June, 2012, being the date of the later of the notifications of completion of the procedures as required by the respective laws for entry into force of the said Agreement, in accordance with paragraph 2 of Article 30 of the said Agreement;

And whereas, sub-paragraph (a) of paragraph 3 of Article 30 of the said Agreement provides that the provisions of the said Agreement shall have effect in India in respect of income derived in any fiscal year beginning on or after the first day of April next following the calendar year in which the Agreement enters into force;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Agreement, as set out in the Annexure hereto, shall be given effect to in the Union of India with effect from 1st day of April, 2013.

Agreement Between the Republic of India and the Republic of Estonia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on income

The Republic of India and the Republic of Estonia, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and with a view to promoting economic cooperation between the two countries, have agreed as follows:

Article 1 : PERSONS COVERED –

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2 : TAXES COVERED –

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political sub-divisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.

3. The existing taxes to which the Agreement shall apply are in particular:

(a) in India, the income tax, including any surcharge thereon; (hereinafter referred to as "Indian tax");

(b) in Estonia, the income tax; (hereinafter referred to as "Estonian tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their respective taxation laws.

Article 3 : GENERAL DEFINITIONS –

1. For the purposes of this Agreement, unless the context otherwise requires:

(a) the term "India" means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the U.N. Convention on the Law of the Sea;

(b) the term "Estonia" means the Republic of Estonia and, when used in the geographical sense, means the territory of Estonia and any other area adjacent to the territorial waters of Estonia within which, under the laws of Estonia and in accordance with international law, the rights of Estonia may be exercised with respect to the sea bed and its sub-soil and their natural resources;

(c) the terms "Contracting State" and "the other Contracting State" mean the Republic of India or the Republic of Estonia as the context requires;

(d) the term "person" includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States;

(e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

(f) the term " enterprise" applies to the carrying on of any business;

(g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(i) the term "competent authority" means:

(i) in India, the Finance Minister, Government of India, or its authorized representative;

(ii) in Estonia, the Minister of Finance or his authorized representative;

(j) the term "national" means:

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

(k) the term "tax" means Indian or Estonian tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty or fine imposed relating to those taxes;

(l) the term "fiscal year" means:

(i) in the case of India, the financial year beginning on the 1st day of April;

(ii) in the case of Estonia, the taxation period as defined in the Estonian taxation laws relating to income tax.

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies. Any meaning under the applicable tax laws of that State prevails over a meaning given to the term under other laws of that State.

Article 4 : RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political sub-division or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then the competent authorities of the Contracting States, then the competent authorities of the Contracting States shall endeavour to resolve the case by mutual agreement due regard being had to its place of effective management or to any other relevant criterion. In the absence of such agreement, such person shall not be considered to be a resident of either Contracting State for the purposes of enjoying benefits under the Agreement.

Article 5 : PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a sales outlet;

(g) a warehouse in relation to a person providing storage facilities for others;

(h) a farm, plantation or other place where agricultural, forestry, plantation or related activities are carried on; and

(i) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. (a) A building site or construction, installation or assembly project or supervisory activities in connection therewith constitutes a permanent establishment only if such site, project or activities lasts more than nine months.

(*b*) The furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, constitutes a permanent establishment but only where activities of that nature continue (for the same or connected project) within the country for a period or periods aggregating more than six months within any 12-month period.

4. Notwithstanding the preceding provisions of this Article the term "permanent establishment" shall be deemed not to include;

(a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise; or

(*c*) habitually secures orders in the first-mentioned State, wholly or almost wholly for the enterprise itself.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6 : INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning, which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, any rights of claim in respect of immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7 : BUSINESS PROFITS : -

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. The expenses to be allowed as deductions by a Contracting State shall include only the expenses that are deductible under the domestic laws of that State. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents, know-how or other rights, or by way of commission or other charges for specific services performed or for management, or, except in the case of banking enterprises, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual

expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents, know-how or other rights, or by way of commission or other charges for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8 : SHIPPING AND AIR TRANSPORT

1. Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. Profits derived by a transportation enterprise which is a resident of a Contracting State from the use, maintenance, or rental of containers (including trailers and other equipment for the transport of containers) used for the transport of goods or merchandise in international traffic shall be taxable only in that Contracting State unless the containers are used solely within the other Contracting State.

3. For the purposes of this Article interest on investments directly connected with the operation of ships or aircraft in international traffic shall be regarded as profits derived from the operation of such ships or aircraft if they are integral to the carrying on of such business, and the provisions of Article 11 shall not apply in relation to such interest.

4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9 : ASSOCIATED ENTERPRISES - *1.* Where -

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of the State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of

the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10 : DIVIDENDS –

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 : INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State, provided that it is derived and beneficially owned by:

(a) the Government, a political sub-division or a local authority of the other Contracting State; or

(*b*) (*i*) in the case of India, the Reserve Bank of India; and

(*ii*) in the case of Estonia, the Bank of Estonia; or

(*c*) any other institution as may be agreed upon from time to time between the competent authorities of the Contracting States through exchange of letters.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. The term "interest" shall not include any income, which is treated as a dividend under the provisions of Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12 : ROYALTIES AND FEES FOR TECHNICAL SERVICES

1. Royalties or fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties or fees for technical services may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the royalties or fees for technical services is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the royalties or fees for technical services.

3. (*a*) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or films or tapes used for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(*b*) The term "fees for technical services" as used in this Article means payments of any kind, other than those mentioned in Articles 14 and 15 of this Agreement as consideration for managerial or technical or consultancy services, including the provision of services of technical or other personnel.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, or fees for technical services being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. (*a*) Royalties and fees for technical services shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority, or a resident of that State. Where, however, the person paying the royalties or fees for technical services, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

(*b*) Where under sub-paragraph (*a*) royalties or fees for technical services do not arise in one of the Contracting States, and the royalties relate to the use of, or the right to use, the right or property, or the fees for technical services relate to

services performed, in one of the Contracting States, the royalties or fees for technical services shall be deemed to arise in that Contracting State.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties or fees for technical services, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13 : CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

4. Gains derived by an enterprise of a Contracting State operating ships or aircraft in international traffic from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.

5. Gains from the alienation of shares other than those mentioned in paragraph 2 in a company which is a resident of a Contracting State may be taxed in that State.

6. Gains from the alienation of any property other than that referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14 : INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State from the performance of professional services or other independent activities of a similar character shall be taxable only in that State except in the following circumstances when such income may also be taxed in the other Contracting State:

(a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or

(b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any period of 12 months; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, surgeons, dentists and accountants.

Article 15 : DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, by an enterprise of a Contracting State may be taxed in that State.

Article 16 : DIRECTORS' FEES –

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17 : ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2, shall not apply to income derived from activities performed in a Contracting State by entertainers or sportspersons if the visit to that State is substantially supported by public funds of one or both of the Contracting States or of political sub-divisions or local authorities thereof. In such a case, the income shall be taxable only in the Contracting State of which the individual entertainer or sportsperson is a resident.

Article 18 : **PENSIONS**

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19 : GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration and to pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or a local authority thereof.

Article 20 : PROFESSORS, TEACHERS AND RESEARCH SCHOLARS

1. An individual who visits one of the Contracting States for the purpose of teaching or carrying out research at a university, college or educational institution recognized by that State, and who immediately before that visit was a resident of that other Contracting State, shall be taxable only in that other State on any remuneration for such teaching or research. However, this paragraph shall apply only for a period not exceeding two years from the date the individual first visits the first mentioned State.

2. This Article shall apply to income from research only if such research is undertaken by the individual in the public interest and not primarily for the benefit of some private person or persons.

3. For the purposes of this Article, an individual shall be deemed to be a resident of a Contracting State if he is resident in that State in the fiscal year in which he visits the other Contracting State or in the immediately preceding fiscal year.

Article 21 : STUDENTS

1. A student who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State and who is present in that other Contracting State solely for the purpose of his education or training, shall besides grants, loans and scholarships be exempt from tax in that other State on payments made to him for the purpose of his maintenance, education or training, provided that such payments arise from sources outside that State.

2. In respect of grants, scholarship and remuneration from employment not covered by paragraph 1, a student referred to paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the Contracting State which he is visiting.

3. The benefits of this Article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article, for more than five consecutive years from the date of his first arrival in that other State.

Article 22 : OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraph 1, if a resident of a Contracting State derives income from sources within the other Contracting State in form of lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any nature whatsoever, such income may be taxed in the other Contracting State.

Article 23 : METHODS FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. In India:

(*a*) Where a resident of India derives income which, in accordance with the provisions of this Agreement, may be taxed in Estonia, India shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax paid in Estonia.

Such deduction shall not, however, exceed that portion of the tax as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in Estonia.

(b) Where in accordance with any provision of the Agreement income derived by a resident of India is exempt from tax in India, India may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. In Estonia:

(*a*) Where a resident of Estonia derives income which, in accordance with the provisions of this Agreement, has been taxed in India, Estonia shall, subject to the provisions of sub-paragraphs (b) and (c) exempt such income from tax.

(b) Where a resident of Estonia derives income which in accordance with the provisions of paragraph 2 of Articles 10, 11 and 12 may be taxed in India, Estonia shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in India. Such deduction shall not, however, exceed the part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from India.

(c) Where in accordance with any provision of the Agreement income derived by a resident of Estonia is exempt from tax in Estonia, Estonia may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

Article 24 : NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment, which an enterprise of a Contracting State has in the other Contracting State, shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as preventing a Contracting State from charging the profits of a permanent establishment which a company of the other Contracting State has in the first mentioned State at a rate of tax which is not more than ten percentage points higher than that imposed on the profits of a similar company of the first mentioned Contracting State, nor as being in conflict with the provisions of paragraph 3 of Article 7.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25 : MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly, for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 26 : EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (including documents or certified copies of the documents) as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of

their political sub-divisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre* public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 27 : ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political sub-divisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall only be brought before the courts or administrative bodies of that State. Nothing in this Article shall be construed as creating or providing any right to such proceedings before any court or administrative body of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be:

(a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or

(b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection,

the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to carry out measures which would be contrary to public policy (ordrepublic);

(c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

(d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 28 : **LIMITATION OF BENEFITS :**

1. Nothing in this Agreement shall affect the application of the domestic provisions to prevent tax evasion or tax avoidance.

2. Benefits of this Agreement shall not be available to a resident of a Contracting State, or with respect to any transaction undertaken by such a resident, if the main purpose or one of the main purposes of the creation or existence of such a resident or of the transaction undertaken by him, was to obtain benefits under this Agreement that would not otherwise be available.

3. The case of legal entities not having *bona fide* business activities shall be covered by the provisions of this Article.

4. Where by reason of this Article a resident of a Contracting State is denied the benefits of this Agreement in the other Contracting State, the competent authority of the other Contracting State shall notify the competent authority of the first-mentioned Contracting State.

Article 29 : MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 30 : ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through diplomatic channels, of the completion of the procedures required by the respective laws for the entry into force of this Agreement.

2. This Agreement shall enter into force on the date of the later of the notifications referred to in paragraph 1 of this Article.

3. The provisions of this Agreement shall have effect:

(a) in India, in respect of income derived in any fiscal year beginning on or after the first day of April next following the calendar year in which the Agreement enters into force; and

(b) in Estonia:

(*i*) in respect of taxes withheld at source, on income derived on or after the first day of January next following the year in which the Agreement enters into force;

(*ii*) in respect of other taxes on income, for taxes chargeable for any fiscal year beginning on or after the first day of January next following the year in which the Agreement enters into force.

Article 31 : TERMINATION

This Agreement shall remain in force indefinitely until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar

year beginning after the expiration of five years from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect:

(a) in India, in respect of income derived in any fiscal year on or after the first day of April next following the calendar year in which the notice is given;

(b) in Estonia,

(i) in respect of taxes withheld at source, on income derived on or after the first day of January next following the year in which the notice is given;

(ii) in respect of other taxes on income, for taxes chargeable for any taxation year beginning on or after the first day of January next following the year in which the notice is given.

In Witness Whereof the undersigned, duly authorized thereto, have signed this Agreement.

Done in duplicate at Tallinn, this 19th day of September, 2011, each in the Hindi, Estonian and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

PROTOCOL

At the signing of the Agreement between the Republic of India and the Republic of Estonia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (hereinafter referred to as "the Agreement") the undersigned have agreed upon the following provisions which form an integral part of the Agreement.

1. Ad Article 5

It is understood that on the date of signing of this Agreement none of the agreements for the avoidance of double taxation concluded by Estonia provide for special provision deeming an insurance enterprise of a Contracting State to have a permanent establishment in the other Contracting State if it collects premiums or insures risks in the territory of that other State otherwise than through an agent of independent status.

However, if after that date, such special provision is included in any agreement for the avoidance of double taxation concluded by Estonia, then the competent authority of Estonia shall notify the competent authority of India about such inclusion and after consultations between the competent authorities of the Contracting States, such provision shall also be considered for this Agreement.

2. Ad Article 6

It is understood that all income and gains from the alienation of immovable property referred to in paragraph 2 of Article 6 and situated in a Contracting State may be taxed in that State in accordance with the provisions of Article 13 of this Agreement.

In witness whereof the undersigned, duly authorized thereto, have signed this Protocol.

Done in duplicate at Tallinn, this 19th day of September, 2011, each in the Hindi, Estonian and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Republic of India
KAPIL SIBAL
Minister of Communications and IT
Government of Republic of India

For the Republic of Estonia
JUNGEN LIGI
Minister of Finance
Governemnt of the Republic Estonia

[Notification No. 27/2012/F.No. 503/02/1997-FTD-1]

SANJAY KUMAR MISHRA, Jt. Secy. (FT & TR-1)

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಜಿ. ಶ್ರೀಧರ್,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

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